

REMARKS/ARGUMENTS

In response to the Office Action dated April 25, 2005, claims 7, 10 and 11 are amended, and claims 9, 12 and 13 are canceled. Claims 1-8, 10 and 11 are now active in this application. No new matter has been added.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 101

Claims 10 and 11 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Examiner maintains that the current format of claims 10 and 11 is unacceptable and suggests to possible formats to remedy the rejection.

By this response, claims 10 and 11 are both amended to be directed to:

A program embodied in a computer readable medium for correcting an image produced by imaging a surface of an opened book facing upward from above of the surface of said book by a camera having a non-fixed positional relation with said book, said program ... being configured to perform the steps of:

As the steps of claims 10 and 11 have not been altered (the scope thereof has not been changed), and claims 10 and 11 have not been rejected under 35 U.S.C. §102 and/or 35 U.S.C. §103, it is believed that claims 10 and 11, as amended, are allowable.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103

I. Claims 1, 2, 5 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Moro (USPN 5,995,245).

The rejection of claims 1, 2 and 5 is respectfully traversed.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention such that the identically claimed invention is placed into possession of one having ordinary skill in the art. *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 200 U.S. App. LEXIS 6300, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994).

There is/are a significant difference between the claimed invention and the arrangement disclosed by Moro that scotches the factual determination that Moro identically describes the claimed invention within.

Independent claim 1 recites, *inter alia*:

an image signal acquiring unit ***for acquiring an image signal generated by an imaging unit imaging an object***, said image signal representing an image of the object;
a detecting unit for ***detecting a line image from the image of said object***
... (Emphasis added)

The emphasized language clearly delineates that an image signal of an object is initially acquired from an imaging unit via the imaging unit imaging the object and the image signal represents an image of the object. Subsequently, a “line image” is detected from the image of the object. In Moro, the image signal acquiring unit is image reading unit 30 and image reading unit 30 includes a line sensor 31 which comprises a CCD array. Thus, line sensor 31 is part of the element that actually provides the image of the object and not a detecting unit that detects a line image of the image of the object that has been provided. As required by claim 1, it is only after the image of the object is obtained that there is detected a line image in the image of the object.

The above argued difference between the claimed device vis-à-vis the device of Moro undermine the factual determination that Moro identically describes the claimed invention within the meaning of 35 U.S.C. § 102. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986). Applicant, therefore, submits that the imposed rejection of independent claim 1, and claims 2 and 5 depending from claim 1, under 35 U.S.C. § 102 for lack of novelty as evidenced by Moro is not factually or legally viable and, hence, solicit withdrawal thereof. Consequently, the allowance of claims 1, 2 and 5 is respectfully solicited.

To expedite prosecution, independent claim 7 is amended to delineate that:

calculating a positional relation includes determining an angle of inclination at an uppermost point of the image signal and an angle of inclination at a lowermost point of the image signal.

Moro neither discloses nor suggests that “calculating a positional relation includes determining an angle of inclination at an uppermost point of the image signal and an angle of inclination at a lowermost point of the image signal.” Consequently, amended independent claim 7 is patentable over Moro and its allowance is respectfully solicited.

II. Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Moro.

However, as claim 5 (depending from claim 1) is patentable over Moro, claim 6 depending from claim 5 is patentable over Moro also. Consequently, the allowance of claim 6 is respectfully solicited.

III. Claims 3, 4, 8 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Moro in view of Matsuda (USPN 5,808,756).

The rejections are respectfully traversed.

As claim 1 is patentable over Moro, claim 3 and 4 depending from claim 1 are patentable over Moro also. Consequently, the allowance of claim 3 and 4 is respectfully solicited.

Claim 8 recites, *inter alia*:

an imaging unit *for converting an optical image of an object into an electric signal to generate an image signal*;
a first calculating unit for calculating respective heights of parts of said object *according to said image signal*;
a second calculating unit for calculating a positional relation between said object and said imaging unit *according to said image signal*; and
a correcting unit for correcting an image of said object *represented by said image signal* to scale up or down said image according to the respective heights of the parts of said object calculated by said first calculating unit and said positional relation calculated by said second calculating unit. (Emphasis added)

As can be seen, the image signal of the object is initially generated and it is this generated image signal that is used by the first and second calculating units, and which is also corrected. In contrast, in Moro, during main scanning, the image processing is performed to correct the image. More specifically, according to the invention recited in claim 8, an image is first obtained and then processing is performed on this obtained image to provide the corrected image. In Moro, a pre-scanning is carried out in order to set various image processing routines including image distortion correction... These set image processing routines are then used during main scanning. The present invention does not use a pre-scanning. Thus, claim 8 is patentable over Moro, even when considered in view of Matsuda.

Claim 9 recites, *inter alia*:

determining a height distribution of said upper or lower end of the surface of said book *according to said measured distance, said extracted edge image of the upper or lower end of said book, and said position of said camera relative to the surface of said book...* (Emphasis added)

The Examiner refers to column 6, lines 55-58 that describe “The curved condition of the document surface S1, i.e., the height distribution, is specified by the aggregate of data indicating the height of document surface S1 at each line.” Specifying the height distribution of surface S1 by the aggregate of data indicating the height of document surface S1 at each line is not the same as determining a height distribution of the upper or lower end of the surface of the book according to *the measured distance, the extracted edge image of the upper or lower end of the book, and the position of the camera* relative to the surface of the book.

Thus, claim 9 is patentable over Moro also, even when considered in view of Matsuda. Consequently, the allowance of claim 9 is respectfully solicited.

CONCLUSION

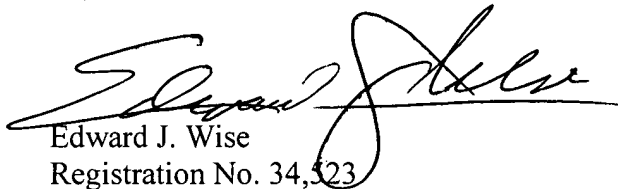
Accordingly, it is urged that the application, as now amended, is in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, Examiner is requested to call Applicants' attorney at the telephone number shown below.

Application No.: 09/941,838

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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